

REMARKS/ARGUMENTS

The Office Action has been carefully considered. Before entry of this paper, the status of the application is as follows:

- Claims 1-82 are pending in the application.
- Claim 83 has been withdrawn from consideration.
- Claim 37 stands rejected under 35 U.S.C. § 112 ¶2.
- Claims 1-10, 13, 19-29, 40, 43-51, 54, and 60-70 stand rejected under 35 U.S.C. § 102(b) as anticipated by EP 1,219,278.
- Claims 11, 12, 14-18, 30-32, 35, 36, 38, 52, 53, 55-59, 71-73, 76, 77, 79, and 80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1,219,278 in view of Ella et al. (U.S. Pub. No. 2004/0260209).
- Claims 33, 34, 37, 74, 75, and 78 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1,219,278 in view of Ella et al. (U.S. Pub. No. 2004/0260209) in further view of Hansjurgens (U.S. Pat. No. 5,573,552).
- Claims 39 and 81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1,219,278 in view of Cosman (U.S. Pat. No. 6,405,572).
- Claim 82 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1,219,278 in view of Ella et al. (U.S. Pub. No. 2004/0260209) in further view of Cosman (U.S. Pat. No. 6,405,572).
- Claims 41 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1,219,278 in view of Lia et al. (U.S. Pub. No. 2004/0019286).

In view of the amendment above and the following remarks, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1-82 and entry of new claim 84.

Claim Rejections – 35 U.S.C. § 112

Claim 37 (and corresponding method claim 78) have been amended to more clearly define the claimed subject matter. In particular, the rate of variation of the operational frequency of the ultrasound apparatus (i.e., the frequency with which the ultrasound frequency is changed) may be inversely proportional to the rate of variation of the pattern variation of the electrical stimulation apparatus (i.e., the frequency with which the stimulation technique is changed).

Claim Rejections – 35 U.S.C. § 102

The Applicant submits that the amended independent claims (1 and 43) are novel over EP 1,219,278, as EP 1,219,278 does not disclose the application of electrical stimulation to the region of treatment simultaneously with ultrasound transmission, where the electrical stimulation comprises interferential stimulation. The device of EP 1,219,278 only includes an ultrasound generator and a vacuum pump, for providing ultrasound and suction treatments, respectively, but does not apply any form of electrical stimulation (let alone interferential stimulation, which is a unique type of electrical stimulation). Moreover, the Examiner actually acknowledges that EP 1,219,278 does not disclose electrical stimulation [refer to first paragraph of page 8 of the Office Action].

Accordingly, the Applicant respectfully maintains that pending independent claims 1 and 43 are not to be regarded as being anticipated by EP 1,219,278. Similarly, all of the dependent claims are not to be regarded as being anticipated by EP 1,219,278, given the aforementioned arguments with regard to the independent claims.

Claim Rejections – 35 U.S.C. § 103

The Applicant submits that the amended independent claims (1 and 43) are inventive over EP 1,219,278 in view of US 2004/0260209 (Ella et al), as neither of these references teaches “*an electrical stimulation apparatus, for applying electrical stimulation to said region of treatment simultaneously with said transmission of ultrasound waves, wherein said electrical stimulation **comprises interferential stimulation***”, as claimed in claim 1 of the present application. This feature is not taught by EP 1,219,278, as acknowledged by the Examiner [see also section 0 above], nor is it taught by Ella et al. The device disclosed by Ella et al. cannot generate interferential currents, because this requires the use of four electrodes placed in the form of a cross on the region of treatment (refer to sections 2.1, 2.2, 2.3 and 2.4 of Pagani (submitted herewith on an Information Disclosure Statement) – see p.8, 9, 10), whereas the device of Ella et al. includes only two electrodes (electrostimulating electrodes 27) [see Figures 6A, 6B and 6C]. Furthermore, the electrodes of Ella et al. are disposed on the device itself (on the surface 20 of spout 12, or on a roller 22 on spout 12) [see [00226]], rather than on the treatment region and in the required configuration. Accordingly, the electrical stimulation of

Ella et al. involves three poles (electrodes 27 and the treatment region), whereas interferential stimulation uses 4 poles (see p.18, lines 19-23 of the Specification). The operative area in the present application is within the region defined by these four electrodes on the body of the patient and is static, unlike Ella et al where the operative region changes as the device is moved. It is further emphasized that the term “interferential” is never mentioned at all in Ella et al. Considering that there are countless types of possible electromagnetic treatments (as well as different types of parameters for each, such as the intensity, frequency, etc), it would not be obvious to a skilled person to consider applying an interferential current in view of the disclosure of Ella et al.

Furthermore, the device of Ella et al. is intended for self-application and so must be held by the patient or individual undergoing treatment during the treatment procedure (see [0033], [0120], [0155]), whereas the treatment device of the present application is held by a different person who is performing the treatment on the patient (see for example p.12, line 11 of the Specification).

Accordingly, the Applicant respectfully maintains that the pending independent claims 1 and 43 meet the “inventive step” criterion of patentability. The system defined in claim 1 (in particular, “*wherein said electrical stimulation comprises interferential stimulation*”) would not be obvious to a skilled person in view of EP 1,219,278 and US 2004/0260209 (Ella et al.).

Accordingly, all of the dependent claims are not to be regarded as being unpatentable over EP 1,219,278 and US 2004/0260209 (Ella et al.), given the aforementioned arguments with regard to the independent claims

New Claim 84

Applicant has submitted new claim 84, which is based on withdrawn claim 83 and rewritten to depend from claim 43. No new matter has been added. Applicant respectfully requests entry of new claim 84.

CONCLUSION

In view of the foregoing, Applicant submits that non-canceled claims 1-84 are allowable. Applicant respectfully requests entry of this Amendment and Response, reconsideration, and early favorable action by the Examiner.

The Examiner is cordially invited to contact Applicant's undersigned representative at the number listed below to discuss any outstanding issues.

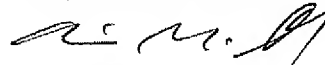
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Respectfully submitted,



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